



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4229

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

725 ILCS 5/107-12
725 ILCS 5/110-2

from Ch. 38, par. 107-12
from Ch. 38, par. 110-2

Amends the Code of Criminal Procedure of 1963. Provides that except as otherwise provided by law or if the peace officer believes that public safety would be jeopardized by the release of the person, whenever a peace officer is authorized to arrest a person with or without a warrant, who has not been previously convicted of a felony or misdemeanor, for a Class 3 felony that is not a violent crime as defined in the Rights of Crime Victims and Witnesses Act or for a Class 4 felony that is not a violent crime as defined in that Act or for a misdemeanor, the peace officer shall instead of arresting that person issue to that person a notice to appear. Provides that except as otherwise provided by law or if the court finds that public safety would be jeopardized by the release of the defendant, a defendant who has not been previously convicted of a felony or misdemeanor who is charged with a Class 3 felony that is not a violent crime as defined in the Rights of Crime Victims and Witnesses Act or for a Class 4 felony that is not a violent crime as defined in that Act or a defendant who has not been previously convicted of a felony or misdemeanor who is charged with a misdemeanor shall be released on his or her own recognizance.

LRB099 12776 RLC 36584 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 107-12 and 110-2 as follows:

6 (725 ILCS 5/107-12) (from Ch. 38, par. 107-12)

7 Sec. 107-12. Notice to appear.

8 (a) Whenever a peace officer is authorized to arrest a
9 person without a warrant he may instead issue to such person a
10 notice to appear.

11 (a-5) Except as otherwise provided by law or if the peace
12 officer believes that public safety would be jeopardized by the
13 release of the person, whenever a peace officer is authorized
14 to arrest a person with or without a warrant, who has not been
15 previously convicted of a felony or misdemeanor, for a Class 3
16 felony that is not a violent crime as defined in subsection (c)
17 of Section 3 of the Rights of Crime Victims and Witnesses Act
18 or for a Class 4 felony that is not a violent crime as defined
19 in that Act or for a misdemeanor, the peace officer shall
20 instead of arresting that person issue to that person a notice
21 to appear.

22 (b) The notice shall:

23 (1) Be in writing;

- 1 (2) State the name of the person and his address, if known;
2 (3) Set forth the nature of the offense;
3 (4) Be signed by the officer issuing the notice; and
4 (5) Request the person to appear before a court at a
5 certain time and place.

6 (c) Upon failure of the person to appear a summons or
7 warrant of arrest may issue.

8 (d) In any case in which a person is arrested for a Class C
9 misdemeanor or a petty offense and remanded to the sheriff
10 other than pursuant to a court order, the sheriff may issue
11 such person a notice to appear.

12 (Source: P.A. 83-693.)

13 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)
14 Sec. 110-2. Release on own recognizance.

15 (a) Subject to subsection (b) of this Section, when ~~When~~
16 from all the circumstances the court is of the opinion that the
17 defendant will appear as required either before or after
18 conviction and the defendant will not pose a danger to any
19 person or the community and that the defendant will comply with
20 all conditions of bond, which shall include the defendant's
21 current address with a written admonishment to the defendant
22 that he or she must comply with the provisions of Section
23 110-12 of this Code regarding any change in his or her address,
24 the defendant may be released on his or her own recognizance.
25 The defendant's address shall at all times remain a matter of

1 public record with the clerk of the court. A failure to appear
2 as required by such recognizance shall constitute an offense
3 subject to the penalty provided in Section 32-10 of the
4 Criminal Code of 2012 for violation of the bail bond, and any
5 obligated sum fixed in the recognizance shall be forfeited and
6 collected in accordance with subsection (g) of Section 110-7 of
7 this Code.

8 This Section shall be liberally construed to effectuate the
9 purpose of relying upon contempt of court proceedings or
10 criminal sanctions instead of financial loss to assure the
11 appearance of the defendant, and that the defendant will not
12 pose a danger to any person or the community and that the
13 defendant will comply with all conditions of bond. Monetary
14 bail should be set only when it is determined that no other
15 conditions of release will reasonably assure the defendant's
16 appearance in court, that the defendant does not present a
17 danger to any person or the community and that the defendant
18 will comply with all conditions of bond.

19 The State may appeal any order permitting release by
20 personal recognizance.

21 (b) Except as otherwise provided by law or if the court
22 finds that public safety would be jeopardized by the release of
23 the defendant, a defendant who has not been previously
24 convicted of a felony or misdemeanor who is charged with a
25 Class 3 felony that is not a violent crime as defined in
26 subsection (c) of Section 3 of the Rights of Crime Victims and

1 Witnesses Act or for a Class 4 felony that is not a violent
2 crime as defined in that Act or a defendant who has not been
3 previously convicted of a felony or misdemeanor who is charged
4 with a misdemeanor shall be released on his or her own
5 recognizance.

6 (Source: P.A. 97-1150, eff. 1-25-13.)